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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/180,691	07/08/1999	DIETMAR KELL	10191/874	7075
26646	7590	08/19/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			BURD, KEVIN MICHAEL	
			ART UNIT	PAPER NUMBER
			2631	

DATE MAILED: 08/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/180,691

Applicant(s)

KELL ET AL.

Examiner

Kevin M. Burd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. This office action, in response to the appeal brief filed on 6/14/2004, is a non-final office action.

Response to Arguments

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
3. A new rejection of the claims under 35 USC 112, second paragraph is found below.
4. The previous rejections of the claims are withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 13-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 13 and 15, Applicant claims location data and selection data are both transmitted from the transmitters and comparing the location data to the

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selection data in the receiver in the claims 13 and 15. Support for this comparison cannot be found in the specifications. Page 10, line 34 to page 11, line 2 states "a determination is made at 47 as to whether the selection contains area code AC. If so, a determination is made at 48 as to whether the location code LC contained in the respective processed message is referenced to area code AC." This statement appears to compare a location code to an area code. However, on page 2, 5th heading of the Appeal Brief, Applicant states "...provision is made for the selection data to be location codes of areas which are defined for the coding and decoding of messages and fall at least partially in the transmission region. The location codes, hereinafter also called area codes...". This appears to define both the location code and the area code as selection data and these two selection data are compared. It is unclear when a location data is compared to selection data. Figures 2a and 2b also describe the selection data / location code / area codes but do not show this location data nor the comparison. Mention is made to selection table that is made of previously received selection codes in page 9, line 32 to page 10, line 1 but no comparison is described. The examiner requests that Applicant, in the next response, point to specific passages in the disclosure that describes the comparison step claimed in claim 13 and 15. Claims 14 and 16-22 are rejected as being dependent on claim 13.

Regarding claim 23, Applicant claims location data and selection data are both transmitted from the transmitters and a device for comparing the location data to the selection data in the receiver in the claims 13 and 15. Support for this comparison cannot be found in the specifications. Page 10, line 34 to page 11, line 2 states "a

determination is made at 47 as to whether the selection contains area code AC. If so, a determination is made at 48 as to whether the location code LC contained in the respective processed message is referenced to area code AC." This statement appears to compare a location code to an area code. However, on page 2, 5th heading of the Appeal Brief, Applicant states "...provision is made for the selection data to be location codes of areas which are defined for the coding and decoding of messages and fall at least partially in the transmission region. The location codes, hereinafter also called area codes...". This appears to define both the location code and the area code as selection data and these two selection data are compared. It is unclear when a location data is compared to selection data. Figures 2a and 2b also describe the selection data / location code / area codes but do not show this location data nor the comparison. Mention is made to selection table that is made of previously received selection codes in page 9, line 32 to page 10, line 1 but no comparison is described. The examiner requests that Applicant, in the next response, point to specific passages in the disclosure that describes the device for comparing as claimed in claim 23. Claim 24 is rejected as being dependent on claim 23.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Thursday 9 am - 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin M. Burd
8/18/2004